

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXXX**

**Petitioner**

**v**

**File No. 121242-001**

**Guardian Life Insurance Company**  
**Respondent**

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**Issued and entered**  
**this \_9th\_ day of September 2011**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On May 6, 2011, XXXXX, on behalf of her daughter XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

Guardian Life Insurance Company (Guardian) submitted the information used in making its adverse determination and the Commissioner accepted the case for review on May 13, 2011.

Because the case involves medical issues, the Commissioner assigned the matter to an independent review organization, which completed its review and sent its recommendation to the Commissioner on July 14, 2011.

**II. FACTUAL BACKGROUND**

The Petitioner is covered as an eligible dependent under a group dental plan underwritten by Guardian.

The Petitioner's dentist determined that she needed crown (or core) buildups on teeth #2, #5, #29, and #30 in preparation for the placement of crowns. The crown buildups were performed on January 15, 2011. Guardian covered the buildup on tooth #29 but denied coverage for the buildups on teeth #2, #5, and #30, stating they were not necessary.

The Petitioner appealed Guardian's denial through its internal grievance process. Guardian upheld its denial in a final adverse determination dated March 18, 2011.

### **III. ISSUE**

Did Guardian correctly deny coverage for the crown buildups?

### **IV. ANALYSIS**

#### **Petitioner's Argument**

In a note dated February 22, 2011, the Petitioner's dentist asked Guardian to reconsider its decision to deny coverage for the crown buildups on teeth #2, #5, and #30:

Due to the amount of decay present radiographically and clinically, these teeth will require crowns to restore. After removing the decay and with the amount of tooth structure remaining, clinical judgment was made that cores and crowns are necessary to properly restore these teeth.

#### **Respondent's Argument**

In its March 18, 2011, final adverse determination, Guardian gave the following rationale for its denial of the crown buildups:

A licensed dentist has reviewed the clinical information submitted and determined that [these teeth appear] to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown. . . .

#### **Commissioner's Review**

Guardian covers dental care which is necessary and appropriate for a given condition and is included in its list of covered dental services. The Petitioner's group insurance plan document contains the following provision under coverage for "Major Restorative Services" on p. 116:

Crowns, inlays, onlays, labial veneers, and crown buildups are covered only when needed because of decay or injury, and only when the tooth cannot be restored with amalgam or composite filling material. Post and cores are covered only when needed due to decay or injury. Allowance includes insulating bases, temporary or provisional restorations and associated gingival involvement. Limited to permanent teeth only. . . .

\* \* \*

Posts and buildups – only when done in conjunction with a covered unit of crown or bridge and only when necessitated by substantial loss of natural tooth structure.

The question of the necessity of the Petitioner's crown buildup was presented to an independent medical review organization (IRO). The IRO dental reviewer assigned to this case has been in practice for more than 18 years. The IRO reviewer concluded:

. . . At issue in this appeal is whether the crown buildups that the [Petitioner] underwent for teeth # 2, 5 and 30 on 1/15/11 were medically necessary for treatment of her condition.

The MAXIMUS dentist consultant noted that there were no x-rays provided for review. However, the MAXIMUS dentist consultant indicated that the [Petitioner's] treating dentist documented that there was sufficient loss of tooth structure to warrant crown buildups for teeth # 2, 5 and 30 prior to preparation for the crowns. The MAXIMUS dentist consultant noted that tooth #29 also required a crown buildup, which was covered by the Health Plan.

Pursuant to the information set forth above and available documentation, the MAXIMUS dentist consultant determined that the crown buildups that the [Petitioner] underwent for teeth #2, 5 and 30 on 1/15/11 were medically necessary for treatment of her condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the recommendation from the IRO is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on experience, expertise and professional judgment and the Commissioner can discern no reason why the IRO's recommendation should be rejected in the present case.

The Commissioner accepts the IRO reviewer's conclusion and finds that the Petitioner's crown buildups were medically necessary and therefore a covered benefit.

## **V. ORDER**

The Commissioner reverses Guardian Life Insurance Company's March 18, 2011, final adverse determination. Guardian shall cover the crown buildups on teeth #2, #5, and #30 that were provided on January 15, 2011. Guardian shall provide this coverage within 60 days of the date of this Order and shall, within seven days of providing coverage, furnish the Commissioner with proof it has implemented this Order.

To enforce this Order, the Petitioner may report any complaint regarding implementation to the Office of Financial and Insurance Regulation, Health Plans Division, toll free (877) 999-6442.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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R. Kevin Clinton  
Commissioner